IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3796 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRIYANKA CARBON & CHEMICAL INDUSTRIES PVT. LTD.
Versus
DEPUTY COMMISSIONER OF INCOME TAX

Appearance:
MR SN SOPARKAR for Petitioner
MR MANISH R BHATT for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE A.R.DAVE

Date of decision: 17/07/2000

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

Rule. Mr. M.R.Bhatt waives service of rule for the respondent. The only grievance raised by the petitioner is that the refund to which the petitioner is entitled, is being wrongly denied without even informing the petitioner or passing any reasoned order under Section 241 of the Income Tax Act.

In the affidavit-in-reply, it has been stated that a substantial demand is likely to be raised on completion of re-opened assessment for years 1992-93 and 1993-94 in the assessee's case and therefore, permission has been granted by CIT, Gujarat-I, Ahmedabad to with-hold the refund.

According to the petitioner, the requisite opinion under Section 241 of the Act has not been formed and the petitioner has not been given any chance to have its say in the matter. Moreover, no reasoned order has been communicated to the petitioner.

Without going into the merits of the contentions raised, the learned Counsel for the respondent states that the concerned authority will make a speaking order in the matter, after hearing the petitioner, preferably within four weeks from today and a fresh order will be passed in the matter ignoring the impugned order, which will be treated as withdrawn. Rule is discharged with no order as to costs.

(R.K.Abichandani, J.) (A.R. Dave, J.)

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